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2                   **IN THE UNITED STATES DISTRICT COURT FOR THE**  
3                   **WESTERN DISTRICT OF MISSOURI**  
                  **SOUTHERN DIVISION**

4 **UNITED STATES OF AMERICA,**            ) **Case No. 15-03123-05-CR-S-RK**  
  )  
5                   **Plaintiff,**                ) **Springfield, Missouri**  
  ) **July 11, 2017**  
6 **v.**    )  
  )  
7 **ARTHUR SANCHEZ,**                        )  
  )  
8                   **Defendant.**                )  
  )  
\_\_\_\_\_)

9  
10                   **TRANSCRIPT OF HEARING ON CHANGE OF PLEA**  
11                   **BEFORE THE HONORABLE DAVID P. RUSH**  
                  **UNITED STATES MAGISTRATE JUDGE**

12 **APPEARANCES:**

13 For the Plaintiff:                        Mr. Abram McGull II  
  Assistant United States Attorney  
14    901 St. Louis St., Ste. 500  
  Springfield, MO 65806  
  (417) 831-4406

15 For the Defendant:                        Ms. Allison R. Hershewe  
16    431 S. Virginia Avenue  
  Springfield, MO 65801  
17    (417) 782-3790

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24  
25 Proceedings recorded by electronic sound recording, transcript  
produced by transcription service.

1 (Court in Session at 10:56 a.m.)

2 THE COURT: Calling in *United States vs. Arthur Sanchez*.  
3 The defendant appears in person along with his attorney, Ms.  
4 Allison Hershewe. The United States appears by Assistant United  
5 States Attorney, Mr. Abe McGull. This matter is set this  
6 afternoon -- or this morning, excuse me, for a plea to guilty to  
7 the one and only count in which the defendant is named in the  
8 Indictment which is Count Two of the Indictment. Mr. Sanchez,  
9 you have signed a consent to have these proceedings for a plea of  
10 guilty before a Magistrate Judge, with the understanding that a  
11 United States District Judge, a judge of higher jurisdiction,  
12 will keep your case for acceptance of the plea of guilty and  
13 sentencing. Even though you signed this consent you have a  
14 right, if you wish, to appear before a United States District  
15 Judge, a judge of higher jurisdiction, for these proceedings. At  
16 any appearance before the District Judge, you're presumed  
17 innocent until such time, if ever, as the Government establishes  
18 your guilt beyond a reasonable doubt to the satisfaction of the  
19 judge or jury. You always have a right to confront and cross-  
20 examine witnesses. You have a right to use the power of the  
21 court to subpoena evidence on your behalf and you have a right to  
22 testify or not testify as you would choose. And if you chose not  
23 to testify it would not be held against you as that is your  
24 right. If, after understanding the charge against you, the range  
25 of punishment, if convicted, and your right to appear before a

1 District Judge, if you wish, you may waive or give up that right  
2 and proceed this morning before the Magistrate Judge. As I  
3 indicated, you have signed such a consent. Do you understand  
4 that you have a right to appear before a United States District  
5 Judge, a judge of higher jurisdiction, for these proceedings?

6 MR. SANCHEZ: Yes, sir.

7 THE COURT: And is it your desire to give up that right  
8 and proceed this morning before the Magistrate Judge?

9 MR. SANCHEZ: Yes, sir.

10 THE COURT: And I can hear you just fine. These  
11 microphones in front of you are directional and so if you would  
12 just speak up. You don't need to bend over or into the  
13 microphone but you're somewhat soft-spoken. I can hear you but  
14 our transcriptionist, who's going to type out the proceeding, she  
15 needs to be able to hear. So if you'll just speak up, I'd  
16 appreciate it. Mr. Sanchez, do you understand the charge against  
17 you in Count Two of the Indictment in this case?

18 MR. SANCHEZ: Yes, sir.

19 THE COURT: Do you understand that if convicted of the  
20 charge in Count Two, that the minimum penalty the court may  
21 impose is not less than 5 years imprisonment, while the maximum  
22 penalty the court may impose is not more than 40 imprisonment, a  
23 \$5 million fine, not less than four years supervised release, and  
24 a \$100 mandatory special assessment?

25 MR. SANCHEZ: Yes, sir.

1 THE COURT: And to the charge in Count Two, how do you  
2 wish to plead, guilty or not guilty?

3 MR. SANCHEZ: Guilty.

4 THE COURT: Would you please raise your right hand as  
5 best you can?

6 ARTHUR SANCHEZ, DEFENDANT, SWORN

7 THE COURT: Has anyone made any threat of any kind to  
8 force you to plead guilty or give up any of the other rights that  
9 we've discussed this morning?

10 MR. SANCHEZ: No, sir.

11 THE COURT: Has anyone promised you anything -- made any  
12 promise of any kind to induce you or overcome your will to get  
13 you to plead guilty or give up any of the other rights we've  
14 discussed?

15 MR. SANCHEZ: No, sir.

16 THE COURT: I mentioned to you that there was a  
17 supervised release term of not less than four years that could be  
18 imposed in your case. Do you understand that if that term were  
19 imposed and then revoked for any reason, that you could be  
20 required to serve an additional term of imprisonment of not more  
21 than three years, and if that happened, you would receive no  
22 credit for any other time you had spent either in custody or on  
23 release?

24 MR. SANCHEZ: Yes, sir.

25 THE COURT: Do you understand that the District Court

1 could then impose an additional term of supervised release, which  
2 is governed by the maximum of the statute, minus any time you'd  
3 spent in custody as a result of a violation?

4 MR. SANCHEZ: Yes, sir.

5 THE COURT: Do you understand that from a sentence  
6 imposed in your case that there is no parole?

7 MR. SANCHEZ: Yes, sir.

8 THE COURT: Do you understand that there are Sentencing  
9 Guidelines to which the District Court would refer to in an  
10 advisory capacity when attempting to fashion a reasonable  
11 sentence in your case?

12 MR. SANCHEZ: Yes, sir.

13 THE COURT: Now, have you discussed the guidelines with  
14 Ms. Hershewe?

15 MR. SANCHEZ: Yes, sir.

16 THE COURT: And do you understand them?

17 MR. SANCHEZ: Yes.

18 THE COURT: Do you understand that the final decision as  
19 to how the guidelines are calculated and ultimately what sentence  
20 will be imposed rests with the District Judge?

21 MR. SANCHEZ: Yes, sir.

22 THE COURT: If the District Judge would calculate the  
23 guidelines differently from what you've discussed with your  
24 attorney, that fact would not give you the right to withdraw or  
25 change your plea of guilty. Do you understand that?

1 MR. SANCHEZ: Yes, sir.

2 THE COURT: Once the District Judge establishes the  
3 advisory guideline range, in some circumstances, you could be  
4 sentenced above that range and, in other circumstances, you could  
5 be sentenced below that range. And again, the judge's decision,  
6 if you disagreed, would not give you the right to withdraw your  
7 plea of guilty. Do you understand that?

8 MR. SANCHEZ: Yes, sir.

9 THE COURT: Now, Mr. Sanchez, you have a right to a  
10 trial by jury with all the protections that I explained to you at  
11 the beginning of these proceedings. Do you understand your right  
12 to a trial by jury?

13 MR. SANCHEZ: Yes, sir.

14 THE COURT: And do you understand that if the court  
15 accepts your plea of guilty that there won't be a trial?

16 MR. SANCHEZ: Yes, sir.

17 THE COURT: Now I'm going to ask you about the offense  
18 charged in Count Two of the Indictment in this case, which is the  
19 only count in which you are named. I would remind you that you  
20 are under oath. You must answer truthfully -- (clearing throat)  
21 excuse me. Any false answers could result in charges of false  
22 swearing or perjury. You always have the right to remain silent.  
23 And I want you to listen carefully because in just a moment I'm  
24 going to ask the attorney for the United States to state for the  
25 record the evidence that he believes that he could present at

1 trial to prove or establish your guilt beyond a reasonable doubt  
2 to the satisfaction of the judge or jury. After he's finished,  
3 I'm going to ask you if you, in fact, did the things that he  
4 states for the record that he believes he can prove beyond a  
5 reasonable doubt. Mr. McGull?

6 MR. MCGULL: Thank you, Your Honor. The facts of this  
7 case that the Government planned to present had it gone to trial  
8 would be that beginning on June 1<sup>st</sup>, 2015, and continuing through  
9 September 11, 2015 Romulo Delatorre, Michael Ford, Lisa Thompson,  
10 and John Waits agreed to distribute 500 grams or more of a  
11 mixture or substance containing a detectable amount of  
12 methamphetamine. This agreement began when Delatorre began  
13 shipping from California multiple packages via Federal Express of  
14 methamphetamine in increments of two to two and a half pounds to  
15 Lisa Thompson in Springfield, Missouri. These shipments all took  
16 place and was received by Lisa Thompson in the Springfield,  
17 Missouri, area in the Western District of Missouri. Thompson  
18 admitted during the conspiracy she received approximately 24  
19 pounds of methamphetamine from Delatorre that she gave to Michael  
20 Ford. Thompson also admitted that she would keep some of the  
21 methamphetamine and sell it directly to methamphetamine users  
22 with some assistance of John Waits. Now, on September 11<sup>th</sup>, Lisa  
23 Thompson and Arthur Sanchez, the defendant here today, were  
24 arrested with a approximately 180 grams of methamphetamine in  
25 their possession. Sanchez admitted to law enforcement that the

1 drugs that were found on September 11, 2015, were his  
2 methamphetamine. Lisa Thompson later confessed to law  
3 enforcement that in the beginning of the conspiracy to distribute  
4 500 grams or more methamphetamine she and Delatorre used their  
5 real name to ship the methamphetamine through FedEx. Now, on the  
6 date of the arrest of Lisa Thompson and Arthur Sanchez, law  
7 enforcement also found a digital scale and a variety of Ziploc  
8 plastic baggies that were found with Lisa Thompson and Arthur  
9 Sanchez. Those are the facts of the case as it relates to this  
10 defendant and the count he's pleading guilty to, Your Honor.

11 THE COURT: And just a couple clarifications and I may  
12 have missed this. This incident on September 11<sup>th</sup>, 2015, did  
13 that occur in Greene County, Missouri?

14 MR. MCGULL: It did, Your Honor.

15 THE COURT: And, Mr. Sanchez, I understand that you are  
16 just pleading guilty to Count Two of the Indictment and I know  
17 that some of the factual basis that was recited by the attorney  
18 for the United States dealt with the other defendants in the case  
19 and talked about a conspiracy involving those defendants. And I  
20 want to make sure that you understand you're not pleading guilty  
21 to that conspiracy. And so, just in regard to the facts that  
22 were recited by Mr. McGull in regard to the incident on September  
23 11<sup>th</sup> of 2015, did you, in fact, do the things that he's stated  
24 for the record in regard to the events that occurred on September  
25 11<sup>th</sup> of 2015?

1 MR. SANCHEZ: Yes, sir.

2 THE COURT: And that -- did that involve 50 grams or  
3 more of a mixture or substance containing methamphetamine?

4 MR. SANCHEZ: Yes, sir.

5 THE COURT: All right. Ms. Hershewe, you've had access  
6 to the discovery file in this case, have you not?

7 MS. HERSHEWE: Yes, Your Honor.

8 THE COURT: And based upon your review of the discovery  
9 file, are you satisfied if put to proof, that the United States  
10 could make a submissible case as to all the elements pertaining  
11 to Count Two of the Indictment?

12 MS. HERSHEWE: Yes, as to aiding and abetting Lisa Renae  
13 Thompson of intentionally with -- possession with intent to  
14 distribute. Not aiding and abetting the conspiracy but aiding  
15 and abetting possession with intent to distribute. It may be a  
16 technicality but --

17 THE COURT: No --

18 MS. HERSHEWE: -- yes, I believe that they could prove  
19 that.

20 THE COURT: Yes, and I think the record will be very  
21 clear when I make my finding. My finding will be that the  
22 defendant -- there is a factual basis -- well, I'll go ahead and  
23 say that now. There is a factual basis for the plea of guilty to  
24 Count Two which charged the defendant with aiding and abetting  
25 Lisa Renee Thompson in knowingly and intentionally possessing

1 with intent to distribute 50 grams or more of a mixture or  
2 substance containing a detectable amount of methamphetamine. The  
3 record will so reflect. I find that the plea is also voluntary  
4 and did not result from force, threats or promises. Mr. Sanchez,  
5 you are represented in this case by Ms. Hershewe. Have you had  
6 enough time to talk with her about your case?

7 MR. SANCHEZ: Yes, sir.

8 THE COURT: Are you satisfied with the advice that she's  
9 given you?

10 MR. SANCHEZ: Yes, sir.

11 THE COURT: The law requires me to ask you if this  
12 morning you are on any medication prescribed by a physician or  
13 any drugs or alcohol of any kind which would affect your ability  
14 to understand these proceedings?

15 MR. SANCHEZ: No, sir.

16 THE COURT: Understanding that and the other matters  
17 that we've discussed this morning, is it your desire for the  
18 court to accept the plea of guilty?

19 MR. SANCHEZ: Yes, sir.

20 THE COURT: Mr. McGull, on behalf of the United States,  
21 do you have any other record under Rule 11 that you think I need  
22 to make?

23 MR. MCGULL: No, Your Honor.

24 THE COURT: Ms. Hershewe, on behalf of the defendant, do  
25 you have any other record under Rule 11 that you think I need to

1 make?

2 MS. HERSHEWE: No, Your Honor. Thank you.

3 THE COURT: I will recommend the plea of guilty be  
4 accepted and I will order a Presentence Investigation to be  
5 conducted by the Probation Office. Mr. Sanchez, good luck to  
6 you, sir.

7 MR. SANCHEZ: I thank you, sir.

8 THE COURT: With that, we'll be in recess.

9 (Court Adjourned at 11:08 a.m.)

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3  
4 I certify that the foregoing is a correct transcript  
5 from the electronic sound recording of the proceeding in the  
6 above-entitled matter.

7  
8 /s/ Lissa C. Whittaker  
Signature of transcriber

July 17, 2017  
Date